

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----  
DANIEL EISNER,

Plaintiff,

v.

WALLEYE TRADING ADVISORS, LLC,

Defendant  
-----

x

:

:

:

:

:

:

:

:

:

:

X

07 Civ. 7837


**NOTICE OF MOTION**

PLEASE TAKE NOTICE that upon the annexed Affidavit of Daniel Eisner sworn to on October 9, 2007, Affidavit of Tomislav Pavlicic sworn to on October 9, 2007, Affidavit of Peter Reiss sworn to on October 2, 2007, the accompanying memorandum of law, and all prior pleadings had herein, plaintiff Daniel Eisner ("Eisner") will move this Court at the United States District Court for the Southern District of New York, 500 Pearl Street, New York, New York, 10007, at a date and time to be designated by the Court, for an Order pursuant to Federal Rules of Civil Procedure 65 for a preliminary injunction enjoining defendant Walleye Trading Advisors, LLC ("Walleye") from attempting to enforce the non-competition agreement signed by Eisner in a manner that prevents Eisner from working for D. E. Shaw & Co., L.P. as a Systems Analyst, and for such other and further relief as this court deems to be just and proper.

PLEASE TAKE FURTHER NOTICE that pursuant to Local Rule 6.1 of this Court, answering papers, if any, shall be served upon the undersigned within ten business days after service of moving papers; and reply papers, if any, shall be served upon plaintiff within five business days after service of the answering papers.

Dated: October 9, 2007  
New York, New York

MCDERMOTT WILL & EMERY LLP

By:   
Terri L. Chase (TC-9091)  
340 Madison Avenue  
New York, NY 10173  
(212) 547-5400

*Attorneys for the Plaintiff*  
Daniel Eisner